

Double Patenting Rejection

Claims 1-54 have been rejected under the judicially created doctrine of double patenting over Claims 1-24 of U.S. Patent No. 6,689,934.

Applicants respectfully assert that this double patenting rejection is improper and should be withdrawn. The subject Patent Application is a Divisional Patent Application, claiming priority to Patent Application Serial No. 10/291,239, which issued as U.S. Patent No. 6,689,934.

Priority Patent Application Serial No. 10/291,239 was subject to a restriction requirement by Examiner Kidwell (recorded in the Notice of Allowance). Applicants elected Claims 26-49 in Group II (absorbent article), and filed this Divisional Patent Application covering the withdrawn Claims 1-25 and 50-87 of Group I (absorbent composite). Currently pending Claims 1-54 are commensurate in scope with nonelected Group I of the Priority Patent Application Serial No. 10/291,239.

As stated in MPEP 804.01:

The third sentence of 35 U.S.C. 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent.

Serial No.: 10/675,412

Docket No.: KCC-16,247.3

Pursuant to 35 U.S.C. 121, Applicants assert the Examiner cannot reject Claims 1-54 of this Divisional Patent Application (filed 30 September 2003) for double patenting in view of the patent issued (10 February 2004) from the priority patent application.


Reconsideration and withdrawal of this double patenting rejection are respectfully requested.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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